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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4272

11 **ASHLEY REBECCA BREE OLIVER**
12 **617 Grant Avenue**
13 **San Leandro, CA 94580**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH**
15 **91169**

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about May 28, 2009, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 91169 to Ashley Rebecca Bree Oliver (Respondent). The Pharmacy
23 Technician License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on December 31, 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

1 4. California Code of Regulations, title 16, section 1770, states:

2 "For the purpose of denial, suspension, or revocation of a personal or facility license
3 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
4 crime or act shall be considered substantially related to the qualifications, functions or duties of a
5 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
6 licensee or registrant to perform the functions authorized by his license or registration in a manner
7 consistent with the public health, safety, or welfare."

8 5. Section 4301 of the Code states:

9 "The board shall take action against any holder of a license who is guilty of unprofessional
10 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
11 Unprofessional conduct shall include, but is not limited to, any of the following:

12 .
13 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
14 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
15 whether the act is a felony or misdemeanor or not.

16 .
17 "(l) The conviction of a crime substantially related to the qualifications, functions, and
18 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
19 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
20 substances or of a violation of the statutes of this state regulating controlled substances or
21 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
22 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
23 The board may inquire into the circumstances surrounding the commission of the crime, in order
24 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
25 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
26 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
27 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
28 of this provision. The board may take action when the time for appeal has elapsed, or the

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
5 indictment.

6
7 "(p) Actions or conduct that would have warranted denial of a license."

8 6. Section 490 of the Code provides, in pertinent part, that a board may suspend or
9 revoke a license on the ground that the licensee has been convicted of a crime substantially
10 related to the qualifications, functions, or duties of the business or profession for which the
11 license was issued.

12 7. Section 125.3 of the Code states, in pertinent part, that the Board may request the
13 administrative law judge to direct a licensee found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case.

16 8. Section 118, subdivision (b), of the Code provides that the
17 suspension/expiration/surrender/cancellation of a license shall not deprive the
18 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
19 within which the license may be renewed, restored, reissued or reinstated.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (UNPROFESSIONAL CONDUCT)

3 9. Respondent is subject to disciplinary action under section 490 and 4301 (f), (l) and
4 (p) in that on or about December 30, 2011, in a criminal proceeding entitled *People v. Ashley*
5 *Rebecca Bree Oliver*, in Alameda Superior court Case No. H 51032B Respondent was convicted
6 by a plea of no contest to a violation of Penal Code Section 211. (Robbery). The circumstances
7 are as follows:

8 a. On or about October 18, 2010, Respondent participated in a robbery at her
9 place of employment, in San Leandro, California by deactivating the alarm to the building and
10 surreptitiously allowing an individual to access the building premises and initiate a robbery at
11 gunpoint.

12 b. On or about December 30, 2011, Respondent was sentenced as follows:
13 Five years probation, 15 days jail time, 100 yard restriction on victim D.H., observe a 100 yard
14 restriction on her former place of employment, and pay fines of approximately \$250.00.

15 **SECOND CAUSE FOR DISCIPLINE**

16 (UNPROFESSIONAL CONDUCT)

17 10. Respondent is subject to disciplinary action under section 490 and 4301 (p) in that on
18 or about December 30, 2011, in a criminal proceeding entitled *People v. Ashley Rebecca Bree*
19 *Oliver*, in Alameda Superior Court Case No. H 51032B Respondent was convicted by a plea of
20 no contest to a violation of Penal Code Section 211. (Robbery). The circumstances are as
21 follows:

22 a. On or about October 18, 2010, Respondent participated in a robbery at her
23 place of employment, in San Leandro, California by deactivating the alarm to the building and
24 surreptitiously allowing an individual to access the building premises and initiate a robbery at
25 gunpoint.

26 b. On or about December 30, 2011, Respondent was sentenced as follows:
27 Five years probation, 15 days jail time, 100 yard restriction on victim D.H., observe a 100 yard
28 restriction on her former place of employment, and pay fines of approximately \$250.00.

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician License Number TCH 91169, issued to Ashley Rebecca Bree Oliver

2. Ordering Ashley Rebecca Bree Oliver to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 12/14/12


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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